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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/989,261	11/20/2001	Eamonn P. Hobbs	ANGIO P-26	9573

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REED SMITH, LLP

ATTN: PATENT RECORDS DEPARTMENT
599 LEXINGTON AVENUE, 29TH FLOOR
NEW YORK, NY 10022-7650

EXAMINER

SCHELL, LAURA C

ART UNIT	PAPER NUMBER
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3767

DATE MAILED: 10/11/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 09/989,261	Applicant(s) HOBBS ET AL.	
	Examiner Laura C. Schell	Art Unit 3767	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 18 July 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 38-60, 64 and 65 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 64 is/are allowed.
- 6) ☒ Claim(s) 38-40, 44-46, 59, 60 and 65 is/are rejected.
- 7) ☒ Claim(s) 41-43 and 47-58 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 38-40, 44-46, 59, 60 and 65 are rejected under 35 U.S.C. 102(b) as being anticipated by Millar (US Patent No. 4,850,358). Millar discloses a catheter assembly (Fig. 8) comprising: at least one tube (130) and a longitudinal companion (120) member connected to one another at surfaces thereof along a predetermined zone (the zone ranging in the area from 128 to 126), and a linear engagement member (10), extending longitudinally through said tube (at 128) and said companion member (at 126), engaging said tube and said companion member at said zone to hold said tube and companion member together at said zone, said tube and said companion member being held together solely at said zone, the distal end of said linear engagement member (distal end of 10) embedded in one of said tube and said companion member (the device disclosed is completely capable of having the distal end of the 10 being embedded in the tube at 126 when the linear engagement member (10) is only threaded through up to 126), said tube, said companion member and said linear engagement member extending proximal of said zone by an amount sufficient to extend out of the body of a patient in whom the catheter is embedded (col. 3, line 43 through col. 4, line 2

discloses that (10) is inserted into the body and the other members (130 and 120) are inserted over (10), which therefore means that all three members must extend out of the body in order for the members to be threaded onto each other for use), withdrawal of said linear engagement member from said zone causing said tube and said companion member disconnect and permitting separate independent withdrawal of said tube and said companion member from the patient (col. 10, lines 10-13).

In reference to claims 39 and 40, Millar discloses that the tube and said companion member each have a sidewall (at 128 and in 116) and said linear engagement member (10) extends longitudinally within the sidewall of at least one of said tube and companion member (Fig. 8 discloses that 10 extends in both sidewalls).

In reference to claims 44-46, Millar discloses that the surfaces are flat surfaces (Fig. 8 discloses that the surfaces at which they are connected are flat).

In reference to claim 59, Millar discloses that the zone is located on the catheter to be within a patient when the catheter is implanted in a patient (col. 3, line 43 through col. 4, line 2 discloses that this area/zone is located within the patient in order to deliver the devices into the vasculature).

In reference to claim 60, Millar discloses that the linear engagement member is a guidewire, however the guidewire is used in surgical procedures and is used to "suture" the components of the system in Fig. 8 together for delivery, and therefore can be considered a surgical suture.

In reference to claim 65, Millar discloses a catheter assembly (Fig. 8) comprising: at least one tube (130) and a longitudinal companion (120) member connected to one

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another at surfaces thereof along a predetermined zone (the zone ranging in the area from 128 to 126), and a linear engagement member (10), extending longitudinally through said tube (at 128) and said companion member (at 126), engaging said tube and said companion member at said zone to hold said tube and companion member together at said zone, said tube and said companion member being held together solely at said zone, said tube and said companion member each have a sidewall (sidewalls located at 128 and between 124 and 116) and said linear engagement member extends longitudinally within the sidewall of both of said tube and companion member (Fig. 8 discloses that (10) extends within the sidewall of both), the distal end of said linear engagement member (distal end of 10) embedded in one of said tube and said companion member (the device disclosed is completely capable of having the distal end of the 10 being embedded in the tube at 126 when the linear engagement member (10) is only threaded through up to 126), said tube, said companion member and said linear engagement member extending proximal of said zone by an amount sufficient to extend out of the body of a patient in whom the catheter is embedded (col. 3, line 43 through col. 4, line 2 discloses that (10) is inserted into the body and the other members (130 and 120) are inserted over (10), which therefore means that all three members must extend out of the body in order for the members to be threaded onto each other for use), withdrawal of said linear engagement member from said zone causing said tube and said companion member disconnect and permitting separate independent withdrawal of said tube and said companion member from the patient (col. 10, lines 10-13).

Allowable Subject Matter

Claims 41-43 and 47-58 objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Claim 64 is allowable over the prior art.

Response to Arguments

Applicant's arguments filed 7/18/2006 have been fully considered but they are not persuasive. Unfortunately it is the new Examiner's position that changing the phrase "distal most portion" to "distal end" does not overcome the prior art of record, as Millar's device discloses that it is completely capable of having the distal end of (10) be embedded in the tube (at 126) if (10) were to be advanced only so far as to extend into the portion of (126), which would then clearly disclose that linear member (10) is embedded in the tube. Also, Callol et al. (US Patent No. 6,749,628) discloses a similar device/configuration in Fig. 59, in which a linear member (536) is used to connect a tube (530) and a companion member (531) and discloses that the linear member is fixedly embedded in the end of the tube, which proves that this idea is well-known within the art.

Furthermore, the examiner believes that despite the fact that the linear member is capable of advancing and retracting does not preclude it from being "embedded" at (126). As Applicant is using the word "embedded" to describe a state in which the linear member of the applicant's invention is in a temporary position, not permanently fixed,

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and can be easily withdrawn just as Millar's linear member (10) would be in a temporary position at (126) and is also easily withdrawn.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Laura C. Schell whose telephone number is (571) 272-7881. The examiner can normally be reached on Monday-Friday 8am-4:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kevin Sirmons can be reached on (571) 272-4965. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

LCS

LCS

KEVIN C. SIRMONS
SUPERVISORY PATENT EXAMINER

